HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO. 7429 OF 1995

Between:

Visakhapatnam Port Employees Union

(Registered), represented by its General Secretary

Mr.D.K. Sarma s/o Ramabhadraiah, Visakhapatnam

and nine others

……Petitioners

And

The Managing Director, Project and Equipment

Corporation, New Delhi and three others

……Respondents

:: ORDER ::

Counsel for the petitioners : Sri V. Parabrahma Sastry

Counsel for Respondent Nos.1 and 2: Smt. A. Kalyani

representing

Sri A. Rajasekhar Reddy

Counsel for Respondent Nos.3 and 4 : Sri B. Krishna Mohan

Dated: 29-03-2006

In this petition, the petitioners have prayed for quashing the action of Food Corporation of India to sell the stocks of food grains to Project and Equipment Corporation (for short 'the Corporation') and to entrust all handling operations of all such cargo in Visakhapatnam to the Corporation.

At the commencement of hearing, learned counsel representing respondent Nos.2 and 4 i.e. the General Manager, Food Corporation of India and the Joint Manager (Operations), Food Corporation of India raised a preliminary objection to the maintainability of the writ petition by contending that the issue sought to be raised by the petitioners constitute an industrial dispute within the meaning of Section 2(k) of the Industrial Disputes Act, 1947 (for short 'the Act') and for adjudication of such dispute, an effective alternative remedy is available to the petitioner under the said Act.

Learned counsel for the petitioners submitted that at this belated stage, his clients should not be non-suited on the ground of availability of alternative remedy.

I have considered the respective submissions. In my opinion, at this belated

stage, it would not be just and proper to non-suit the petitioners only on the ground that they have failed to avail the alternative remedy of reference. Moreover, it is seriously doubtful whether the issue raised in the writ petition can be treated as an industrial dispute within the meaning of Section 2(k) of the Act. However, I do not consider it necessary to decide this question because after hearing learned counsel for the parties, I am convinced that the writ petition is merit-less and is liable to be dismissed. The petitioners have not placed on record the agreement or any other document pursuant to which the Food Corporation of India agreed to sell its stocks to the Corporation and without going through the agreement and/or the document pursuant to which the Food Corporation is said to have agreed to sell its stock to the Corporation, the Court cannot adjudicate on its legality, constitutionality or validity. That apart, the petitioners have not indicated the tenure of the so-called agreement executed between the Food Corporation of India and the Corporation. It is therefore not possible to entertain their omnibus prayer for annulment of the so-called agreement/transaction.

For the reasons stated above, the writ petition is dismissed.

G.S. SINGHVI, CJ

29-03-2006

ks/ARS